

EXHIBIT C

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

JAMES HAYDEN,

CASE NO: 1:17CV2635

Plaintiff,

v.

2K GAMES, INC., et al.,

Defendants.

Deposition of JAMES HAYDEN

Cleveland, Ohio

Wednesday, October 30, 2019 - 9:04 a.m.

Reported by:

Angela Nixon, RMR, CRR

Job No.: 26345

1 A. So the page is here?

2 Q. Yes, that's the Bates numbered page.

3 A. All right.

4 Q. And do you see section 4, it says 4 Limitation of
5 Copyright Claim, do you see that?

6 A. Yes.

7 Q. And do you see in section 4a it states (Reading:)
8 Material excluded from this claim (material previously
9 registered, previously published, or not owned by this
10 claimant), do you see that?

11 A. I'm reading with you.

12 Q. Okay. Isn't it true that nothing was disclosed
13 on this form about the fact that you used a -- the playing
14 card that Mr. James brought in to create the lion tattoo?

15 MR. MCMULLEN: Objection.

16 A. Could you say that again, restate that?

17 MS. CENDALI: Please read it back.

18 (Whereupon the court reporter read back the
19 previous question.)

20 MR. MCMULLEN: I'll restate my objection.

21 A. I want you to restate the question if you could.

22 Q. Why can't you answer my question?

23 A. I have a hard time understanding what you're
24 asking.

25 Q. You didn't tell the copyright office when this

1 copyright application was submitted that the lion tattoo
2 had been based on the playing card that Mr. James brought
3 in, did you?

4 MR. MCMULLEN: Objection.

5 A. No, because I draw that tattoo on with a marker.

6 Q. You didn't, in this form, do anything to tell the
7 copyright office that Mr. James had brought in a tattoo of
8 a lion and that he asked you to do something similar to
9 that, correct?

10 MR. MCMULLEN: Objection.

11 A. I guess not.

12 THE COURT REPORTER: I'm sorry, what did you say?

13 A. I guess not.

14 Q. Is Kimberly Textoris one of the lawyers
15 representing you in this action?

16 A. Yes.

17 Q. And did she file your copyright registrations on
18 your behalf?

19 A. Yes.

20 Q. So let's take a look at what's been marked as
21 Defendant's Exhibit 14, a document that appears to be a
22 copyright registration baring Bates Numbers Take-Two 148
23 through 204. And turning, if you would, to Page 200 of
24 that document. Is that a drawing you made after the fact
25 to recreate the look of the star tattoo you inked on

1 Q. Let's take a look at what's been marked as
2 Exhibit 17. Defendants' Exhibit 17 is a document that
3 appears to be another copyright registration bearing Bates
4 Number Take-Two 184 through 225. And turning, if you
5 would, to Bates Numbered Page 222 of the document, is that
6 a photograph of the -- my brother's keeper tattoo that you
7 inked on Mr. Thompson?

8 A. It's a photograph that I drew on Mr. Thompson.

9 Q. That reflects the -- that tattoo as it was inked
10 on him, isn't that true?

11 A. Yes.

12 Q. And isn't it true that nowhere in this document
13 do you disclose that those hands were modeled after the
14 Michelangelo hands?

15 MR. MCMULLEN: Objection.

16 A. Because they weren't.

17 Q. So you just think you were not inspired by
18 Michelangelo's hands of the two hands touching --
19 fingertips touching one another when you did the design for
20 my brother's keeper?

21 MR. MCMULLEN: Objection.

22 A. Ask that question again.

23 MS. CENDALI: Repeat it.

24 (Whereupon the court reporter read back the
25 previous question.)

1 MR. MCMULLEN: Objection.

2 A. I don't know, I drew it on with marker. Like I
3 said, I'm an artist.

4 Q. Well, you drew it on with a marker, but
5 Michelangelo was an artist too, right, and you knew about
6 his design with the two fingertips touching one another, or
7 the two hands, right?

8 A. That may be true, but Michelangelo designs
9 weren't recreated and copy written and used by NBA 2K.

10 Q. You didn't mention, when you submitted this
11 copyright application to the copyright office, that --
12 anything about Michelangelo's hands, correct?

13 MR. MCMULLEN: Objection.

14 A. Has nothing to do with Michelangelo.

15 Q. You didn't disclose that there was any
16 preexisting material when you submitted the application
17 reflected in Exhibit 17, isn't that true?

18 MR. MCMULLEN: Objection.

19 A. Not true.

20 Q. Where do you disclose? Please look at Page 185.

21 A. What about it? I saw it earlier.

22 Q. Okay. Where, on Page 185 of -- do you disclose
23 anything about Michelangelo?

24 MR. MCMULLEN: Objection.

25 A. It has nothing to do with Michelangelo, this